

1 DAVID L. ANDERSON (CABN 149604)  
2 United States Attorney

3 HALLIE HOFFMAN (CABN 210020)  
Chief, Criminal Division

4 AMIE D. ROONEY (CABN 215324)  
5 Assistant United States Attorney

6 150 Almaden Boulevard, Suite 900  
7 San Jose, California 95113  
Telephone: (408) 535-5061  
8 FAX: (408) 535-5066  
Amie.Rooney@usdoj.gov

9 Attorneys for United States of America

10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA

12 SAN JOSE DIVISION

13  
14 UNITED STATES OF AMERICA, ) No. CR 18-00259-BLF (NC)  
15 Plaintiff, ) [PROPOSED] AMENDED STIPULATED  
16 v. ) INTERIM PROTECTIVE ORDER.  
17 KATHERINE MOGAL, )  
ANA ROSARIO, )  
18 PATRICK NARRON, )  
PATRICIO ROMANO, )  
19 RONG "AUDREY" ZHANG, and )  
JING QUI "GEE" WEIDEN, )  
20 )  
21 Defendants. )  
22

23 WHEREAS during the course of discovery in the above-captioned criminal case, the United  
24 States may produce documents and other items containing information that is confidential and/or is  
25 "trade secret" information (within the meaning of 18 U.S.C. § 1839(3)), including documents and other  
26 items obtained during the course of the investigation from victim companies and other third parties;

27 WHEREAS during the course of discovery in the above-captioned criminal case, the United  
28 States may produce documents and other items containing personally identifiable information of

STIPULATION & [PROPOSED] ORDER  
CR 18-00259 BLF

1 individual victims and other third parties, including information that is subject to Federal Rule of  
2 Criminal Procedure 49.1;

3 WHEREAS the United States and defendants deem it appropriate for the purpose of facilitating  
4 pretrial negotiations and to provide for the protection of such information without agreeing that the  
5 specific information is in fact confidential, is a trade secret, or is subject to other legal protection, and  
6 with the further understanding that nothing in this stipulated protective order creates any presumption  
7 regarding whether the specific information is confidential, is a trade secret, or is subject to other legal  
8 protection, and lastly preserving defendant's rights to challenge any such designation at a later time;

9 IT IS HEREBY STIPULATED AND AGREED by and between the United States and  
10 defendants and their counsel, that the following definitions and procedures will govern the designation  
11 and handling of material and other information produced by the United States during pretrial  
12 negotiations, while reserving the question of how such material and information should be handled at  
13 trial, and during pre- or post-trial hearings for a future time.

14 1. Definitions:

15 a. "Confidential Material" shall mean information that the Government contends is  
16 intended to be kept secret, is a trade secret within the meaning of 18 U.S.C. § 1839(3), or  
17 contains personally identifiable information of individual victims and other third parties,  
18 including information that is subject to Federal Rule of Criminal Procedure 49.1.

19 b. "Discovery Material" shall mean all materials disclosed by the United States during  
20 discovery in this case (regardless of whether the criminal number assigned to this case  
21 changes due to the filing of an indictment or superseding indictment).

22 c. The protections conferred by this Stipulated Interim Protective Order cover not only  
23 Confidential Material (as defined above), but also include (i) any information copied or  
24 extracted from Confidential Material; (ii) all copies, excerpts, summaries, or compilations  
25 of Confidential Material; and (iii) any testimony, conversations, or presentations by the  
26 parties and their counsel that might reveal Confidential Material.

27 d. Inadvertent failure to designate qualified information or items as Confidential Material  
28 does not, standing alone, waive the United States' right to secure protection under this

1 Stipulated Interim Protective Order for such material if timely corrected. Upon timely  
2 correction of designation, the defendants and their counsel must make reasonable efforts  
3 to assure the materials are treated in accordance with the provisions of this Stipulated  
4 Interim Protective Order.

5 2. The United States may designate Discovery Material as Confidential Material to the extent  
6 that it believes in good faith that the information or material is or may be Confidential Material as  
7 defined in paragraph 1(a) above. Any labeling, segregation, or designation of Discovery Material as  
8 "Confidential Material" should be made, whenever possible, in the case of written, tangible, or  
9 documentary Discovery Material, at the time that Discovery Material is produced or made known to  
10 defendant by marking the Discovery Material "CONFIDENTIAL" in a manner that is readily  
11 distinguishable from any pre-existing confidential designation or by otherwise manifesting the intention  
12 that the Discovery Material be considered Confidential Material. Computer memory storage materials  
13 such as tapes, diskettes, hard drives, or other memory media containing Discovery Material deemed by  
14 the United States as containing Confidential Material, shall be labeled on the outside of the media as  
15 "CONFIDENTIAL." The Government shall maintain unlabeled, or "clean" copies of all discovery  
16 material that it has labeled "CONFIDENTIAL" under this stipulated order, for the future use by the  
17 parties in subsequent proceedings.

18 3. Discovery Material designated as "CONFIDENTIAL" shall be retained by defendants'  
19 counsel in the above-captioned case and furnished, at this time, to no one other than defendants' counsel  
20 in the above-captioned case, defendant, the staff supporting defendants' counsel in the above-captioned  
21 case such as interpreters, defense investigators, paralegal assistants, and secretarial, stenographic, and  
22 clerical employees who are working on this case under the direction of defendants' counsel and to whom  
23 it is necessary that the materials be disclosed for purposes of the defense of this case. The defendants'  
24 counsel may further show documents to any custodian listed on the face of such document, but shall not  
25 leave any such Confidential Material with the custodian. The defendants' counsel may also show  
26 documents to any potential witness that they deem necessary for the defense of this matter but shall not  
27 leave any such Confidential Material or summary of the Confidential Material with the potential  
28 witness. In the event that a defendant or her/his counsel wishes to consult an expert regarding these

1 materials, the procedure for doing so is addressed in paragraph 8 of this agreement. All such material  
2 shall be kept in the offices of defendants' counsel in the above-captioned case and neither this material  
3 nor any copies of this material shall leave that office for any purpose except submission in camera to the  
4 Court, except that counsel may include the material in emails among themselves as necessary for the  
5 defense of this matter, provided that when Confidential Materials are attached to an email between  
6 counsel, the confidential materials shall be encrypted. **Notwithstanding any other provision of this**  
7 **order, defendants' counsel may transmit Confidential Materials to their experts via a secure,**  
8 **password-protected FTP site.** Electronic copies of this material may be stored on stand-alone,  
9 password protected laptop computers and in password protected cloud-based accounts belonging to the  
10 defendants' counsel. However, no such material shall be downloaded to or maintained by the  
11 defendants' counsel on a portable storage device such as a thumb drive or removable external hard  
12 drive, unless that thumb drive or external storage device is password protected. Should a defendant be  
13 detained prior to resolution of the Indictment, her/his counsel may bring the designated confidential  
14 material to the facility in which she/he is incarcerated to assist in the defendant's preparation, but shall  
15 not leave any such confidential material with the defendant. All such material shall be used solely for the  
16 purpose of conducting pre-trial, trial, and appellate proceedings in this case and for no other purpose  
17 whatsoever, and shall not be used for the economic benefit of defendant or for the benefit of any third  
18 party. All motions which contain any of the material labeled "CONFIDENTIAL" and which are filed  
19 with the Court shall be filed and kept under seal until further order of the Court. Confidential Material  
20 filed under seal shall be filed with the Clerk of the Court in sealed envelopes or boxes prominently  
21 marked with the caption of this case and the notation:

22 TO BE FILED UNDER SEAL

23 Contains Confidential Material

24 To Be Opened Only As Directed By The Court

25 4. The recipient of any Confidential Material that is provided under this Stipulated Interim

26 Protective Order shall keep such information in a manner reasonably intended to preserve and maintain  
27 the confidentiality of the information and shall not disclose such information to any individuals except  
28 as authorized by this Stipulated Interim Protective Order.

1       5. At the conclusion of the above-captioned case, defendants and their counsel in the above-  
2 captioned case agree to return or certify the destruction of all Confidential Material to the United States,  
3 except as directed by the Court.

4       6. Nothing herein shall prevent any defendant from using the Confidential Material or from  
5 referring to, quoting, or reciting from any information contained in such Confidential Material in  
6 connection with pleadings or motions filed in this case, provided that such materials be filed under seal  
7 and/or submitted to the Court for in camera inspection. The use of Confidential Material at trial or pre-  
8 or post-trial hearing will be resolved at or before the time of the trial or hearing.

9       7. Should a defendant dispute the propriety of any designation of Discovery Material as  
10 Confidential Material, her/his counsel shall notify the United States in writing. Such notice shall state  
11 counsel's position with regard to the matter in issue. Within seven business days from receiving the  
12 notice, the United States shall respond to the notice in writing. If, after this exchange of correspondence,  
13 the defendant and the United States cannot resolve their dispute, they may apply to the Court to do so.  
14 During the pendency of the dispute and any court resolution thereof, including an appeal of the Court's  
15 decision on such motion, the discovery material shall be deemed "CONFIDENTIAL" as designated and  
16 shall be covered by the provisions of this Stipulated Interim Protective Order. The parties understand  
17 that, as this Stipulated Interim Protective Order is primarily intended to facilitate pretrial negotiations,  
18 the defendants and their counsel may choose not to formally challenge the Government's designation of  
19 certain material as confidential at this stage in the proceeding. Such a failure to challenge the  
20 confidential designation by any defendant does not constitute a waiver on the defendant's part of either  
21 the ability to challenge that confidential designation or the ability to contest that certain portions of the  
22 designated confidential material constitutes "trade secret" information under 18 U.S.C. § 1839(3) or is  
23 personally identifiable information, including information that is subject to Federal Rule of Criminal  
24 Procedure 49.1.

25       8. At such time as a defendant retains an expert or experts to assist in the review of the  
26 Confidential Material, each such person shall execute the Acknowledgment included with this Stipulated  
27 Interim Protective Order, which shall then be submitted to the Court ex parte and in camera by the  
28 defendant. Defendant shall not be required to provide said Acknowledgment, or the identity of the

1 expert who signed it, to the United States, unless so ordered by the Court. The United States retains the  
2 right to request that the Court authorize such disclosure. Nothing in this paragraph relieves the defendant  
3 of the discovery obligations contained in Fed. R. Crim. P. 16 (b)(1)(C), nor does the United States waive  
4 any rights thereunder by entering into this stipulation.

5 9. By signing and agreeing to the terms of this Stipulated Interim Protective Order, no person  
6 shall be deemed to have conceded that any material has been properly designated as confidential.  
7 Nothing in this order shall preclude the United States or defendant from applying to the Court for further  
8 relief or modification. The parties' agreement to enter into this Stipulated Interim Protective Order at  
9 this time is for the purpose of pretrial negotiations, and is not a concession by the defendant that the  
10 terms contained herein would be appropriate should the case proceed beyond that stage.

11 10. Willful violation of this Stipulated Interim Protective Order may be punishable by contempt  
12 of court, whatever other sanction the Court deems just, or any other sanctions or combination of  
13 sanctions that are legally available.

14 Dated: April 9, 2019

Respectfully submitted,

15 DAVID L. ANDERSON  
United States Attorney

17 \_\_\_\_\_  
18 /s/  
19 AMIE D. ROONEY  
20 Assistant United States Attorney

21 Dated: April 9, 2019

22 \_\_\_\_\_  
23 /s/  
24 RANDY LUSKEY  
Counsel for KATHERINE MOGAL

25 Dated: April 9, 2019

26 \_\_\_\_\_  
27 /s/  
28 ED SWANSON  
Counsel for ANA ROSARIO

Dated: April 9, 2019

\_\_\_\_\_  
/s/  
MILES EHRLICH  
Counsel for PATRICK NARRON

1  
2 Dated: April 9, 2019

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/s/  
DAVID SCHEPER  
Counsel for PATRICIO ROMANO

Dated: April 9, 2019

/s/  
WILLIAM KEANE  
Counsel for RONG ZHANG

Dated: April 9, 2019

/s/  
JOSHUA COHEN  
Counsel for JING QUI WEIDEN

IT IS SO ORDERED.

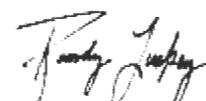
Dated: \_\_\_\_\_

HON. BETH LABSON FREEMAN  
United States District Judge

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2  
**AGREEMENT TO BE BOUND BY**  
**AMENDED STIPULATED INTERIM PROTECTIVE ORDER**

3 The undersigned, defendants KATHERINE MOGAL, ANA ROSARIO, PATRICK NARRON,  
4 PATRICIO ROMANO, RONG "AUDREY" ZHANG, and JING QUI "GEE" WEIDEN, and their  
5 counsel in the above-captioned case, CR 18-00259 BLF, hereby each acknowledge that they have  
6 received a copy of the AMENDED Stipulated Interim Protective Order, have read, understand, and  
7 agree to be bound by all of the provisions thereof, and hereby submit to the jurisdiction of the United  
8 States District Court for the Northern District of California for the purposes of enforcement of the terms  
9 of the Stipulated Interim Protective Order and the punishment of any violations thereof.

10 Dated: 4/9/19



RANDY LUSKEY  
Counsel for KATHERINE MOGAL

11 Dated: \_\_\_\_\_

KATHERINE MOGAL  
Defendant

12 Dated: \_\_\_\_\_

ED SWANSON  
Counsel for ANA ROSARIO

13 Dated: \_\_\_\_\_

ANA ROSARIO  
Defendant

14 Dated: \_\_\_\_\_

MILES EHRLICH  
Counsel for PATRICK NARRON

15 Dated: \_\_\_\_\_

PATRICK NARRON  
Defendant

**AGREEMENT TO BE BOUND BY  
AMENDED STIPULATED INTERIM PROTECTIVE ORDER**

The undersigned, defendants KATHERINE MOGAL, ANA ROSARIO, PATRICK NARRON, PATRICIO ROMANO, RONG "AUDREY" ZHANG, and JING QUI "GEE" WEIDEN, and their counsel in the above-captioned case, CR 18-00259 BLF, hereby each acknowledge that they have received a copy of the AMENDED Stipulated Interim Protective Order, have read, understand, and agree to be bound by all of the provisions thereof, and hereby submit to the jurisdiction of the United States District Court for the Northern District of California for the purposes of enforcement of the terms of the Stipulated Interim Protective Order and the punishment of any violations thereof.

Dated: \_\_\_\_\_

---

RANDY LUSKEY  
Counsel for KATHERINE MOGAL

Dated: \_\_\_\_\_

KATHERINE MOGAL  
Defendant

Dated: 4-9-19

**ED SWANSON**  
Counsel for ANA ROSARIO

Dated: \_\_\_\_\_

---

**ANA ROSARIO**  
Defendant

Dated: \_\_\_\_\_

---

MILES EHRLICH  
Counsel for PATRICK NARRON

Dated: \_\_\_\_\_

**PATRICK NARRON**  
Defendant

**AGREEMENT TO BE BOUND BY  
AMENDED STIPULATED INTERIM PROTECTIVE ORDER**

The undersigned, defendants KATHERINE MOGAL, ANA ROSARIO, PATRICK NARRON, PATRICIO ROMANO, RONG "AUDREY" ZHANG, and JING QUI "GEE" WEIDEN, and their counsel in the above-captioned case, CR 18-00259 BLF, hereby each acknowledge that they have received a copy of the AMENDED Stipulated Interim Protective Order, have read, understand, and agree to be bound by all of the provisions thereof, and hereby submit to the jurisdiction of the United States District Court for the Northern District of California for the purposes of enforcement of the terms of the Stipulated Interim Protective Order and the punishment of any violations thereof.

Dated:

RANDY LUSKEY  
Counsel for KATHERINE MOGAL

Dated: \_\_\_\_\_

**KATHERINE MOGAL**  
**Defendant**

Dated:

**ED SWANSON**  
Counsel for ANA ROSARIO

Dated:

---

**ANA ROSARIO**  
Defendant

Dated: 4/2/2019

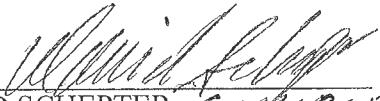
MILES EHRLICH *Amry Craig*  
Counsel for PATRICK NARRON

Dated: 4/2/2019

Patrick J. Naron  
PATRICK NARON  
Defendant

1 Dated:

4/2/19

  
DAVID SCHEPTER  
Counsel for PATRICIO ROMANO

2 Dated:

PATRICIO ROMANO  
Defendant

3 Dated:

  
WILLIAM KEANE  
Counsel for RONG ZHANG

4 Dated:

RONG ZHANG  
Defendant

5 Dated:

  
JOSHUA COHEN  
Counsel for JING QUI WEIDEN

6 Dated:

JING QUI WEIDEN  
Defendant

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1 Dated: \_\_\_\_\_

DAVID SCHEFTER  
Counsel for PATRICIO ROMANO

2 Dated: \_\_\_\_\_

PATRICIO ROMANO  
Defendant

3 Dated: 3/22/19

WILLIAM KEANE  
Counsel for RONG ZHANG

4 Dated: \_\_\_\_\_

RONG ZHANG  
Defendant

5 Dated: \_\_\_\_\_

JOSHUA COHEN  
Counsel for JING QUI WEIDEN

6 Dated: \_\_\_\_\_

JING QUI WEIDEN  
Defendant

1 Dated: \_\_\_\_\_

DAVID SCHEPTER  
Counsel for PATRICIO ROMANO

2 Dated: \_\_\_\_\_

PATRICIO ROMANO  
Defendant

3 Dated: \_\_\_\_\_

WILLIAM KEANE  
Counsel for RONG ZHANG

4 Dated: \_\_\_\_\_

RONG ZHANG  
Defendant

5 Dated: 3/21/19

  
JOSHUA COHEN  
Counsel for JING QUI WEIDEN

6 Dated: \_\_\_\_\_

JING QUI WEIDEN  
Defendant

1  
2                   **ACKNOWLEDGEMENT OF**  
3                   **STIPULATED INTERIM PROTECTIVE ORDER**  
4

5                   The undersigned hereby acknowledges that he or she has received a copy of the AMENDED  
6 Stipulated Interim Protective Order issued in *United States v. Katherine Mogal, et al*, No. CR 18-004259  
7 BLF, has read, understands, and agrees to the terms of the Stipulated Protective Order, and hereby  
8 submits to the jurisdiction of the United States District Court for the Northern District of California for  
9 the purposes of enforcement of the terms of the Stipulated Protective Order and the punishment of any  
10 violations thereof.

11                  Dated: \_\_\_\_\_

12                  \_\_\_\_\_  
13                  Signature : \_\_\_\_\_  
14

15                  \_\_\_\_\_  
16                  Printed Name \_\_\_\_\_  
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18                  \_\_\_\_\_  
19                  Street Address \_\_\_\_\_  
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21                  \_\_\_\_\_  
22                  City, State, and Zip Code \_\_\_\_\_  
23

24                  \_\_\_\_\_  
25                  Area Code and Telephone Number \_\_\_\_\_  
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